

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK,

Plaintiff,

Civil Action No. 19-cv-3998

-against-

CIGARETTES UNLIMITED, L.C., JOHN A. LASH, III,
ANITA LASH, STEPHEN DABNEY RILEY, SHANA L.
BILLER, MARY RILEY, MARGARET L. CLARK,
CANDICE S. FOX, MONIQUE PEARSON, JULIUS
PETERS-BRANDON, JOANNA S. PETTIES, PAULA K.
SLOAN, DERRICK L. WHITING, JESSICA
WHITEHEAD, ELIZABETH R. WINDHAM, DEBRA A.
ANTICO, JOSEPH N. ANTICO, THOMAS
GUGLIELMO, MERYLE MCGOWAN, ROBERT A.
SCHMIDT, RAZIK K. SHARKI, and John or Jane Doe 1-
30,

Defendants.

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DECLARATION OF MARY DAVERN

Mary Davern declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Mary Davern. I reside in Staten Island, New York, and have done so for the past 20 years.

2. This declaration describes many of my interactions with defendants Cigarettes Unlimited, L.C., ("Cigarettes Unlimited") and certain persons identified to me as owners or employees of Cigarette Unlimited. My declaration sets forth my present recollections, but does not necessarily contain all of the information that I possess concerning Cigarettes Unlimited and its owners and employees.

3. I began purchasing cigarettes in Virginia for transport back to Staten Island approximately 12 to 13 months ago. I had learned from Robert Schmidt, a friend of mine from whom I used to purchase cigarettes, that I could earn extra money by buying cigarettes in Virginia and re-selling them in New York. For my first purchase I went to Cigarettes Unlimited with Schmidt. He introduced me to "Paula" at the Dale City store and told her that I would be "coming down" to buy cigarettes there. After that, I mostly went to Cigarettes Unlimited alone; one or two times I went with Schmidt after my car had been in an accident.

4. I initially would travel to Cigarettes Unlimited once a week and purchase from 80 to 100 cartons. After Paula told me I could receive a one dollar per carton discount if I bought 100 cartons, and a \$2 per carton discount if I bought 200 cartons, I switched to going down every other week and buying 200 cartons. I paid about \$59 a carton. I sold a carton in New York for \$65; I know others who charged \$70-75 for a carton for cigarettes that had been purchased in Virginia.

5. I only purchased from the Dale City store, where most of my contact was with "Julius," "Paula," or "Candice," Paula's daughter. I telephoned in my order on a Wednesday for a Friday pick-up or on a Monday for a Wednesday pick-up. I called from either of my two phones, which have a "718" or "646" area code. I believe Cigarettes Unlimited received deliveries from its wholesaler, Atlantic Dominion on Tuesdays and Thursdays.

6. I picked up the cigarettes from Cigarettes Unlimited using my personal vehicle, which has New York license plates. Rob Schmidt told me that the "rule" was to park on the side of the store, near the side door. I wanted to arrive as early as possible, but Julius instructed me to arrive at 9:30. I believe that was because there were others who picked-up

earlier than 9:30. I know that Debra and Joseph Antico arrived earlier than I did, and I once ran into Debora Antico leaving as I arrived.

7. When I arrived at Cigarettes Unlimited, my cigarettes were already boxed up in the back room of the store. The back room had marked spaces, like a parking lot, where the boxed orders were placed, with each space designated by a letter. There was usually no one else present at the store when I picked up my cigarettes, but there were always 2 or 3 spaces with orders in them, as well as some empty spaces. I always paid cash and never received receipts.

8. When I picked up an order, Julius or Paula would place the order into black plastic bags. They used a shopping cart to bring the order to my car, and would help me load the cigarettes into the trunk, where I always stored them for the return trip to New York. I tipped Julius or Paula \$40 or \$50 per order.

9. Julius, the store manager, knew that I was from New York, based on our small-talk about the drive, traffic and the weather. Julius knew that Rob Schmidt and the Anticos were from New York. Julius and Paula would have known I was from New York from the New York plates on my car. Paula also knew that I was from New York, and knew that the Anticos were from Staten Island. I am absolutely sure that the store workers at Cigarettes Unlimited people knew I was from New York.

10. Sometime in May of this year, I learned from Rob Schmidt that Debra and Joseph Antico had been arrested in Staten Island for cigarettes. We couldn't believe that they had been followed all the way back from Virginia to New York. I spoke with Paula after the Anticos' arrest. She said she did not believe that they could have been followed from the store.

11. On June 12, 2019, at about 9:30 a.m., I called Cigarettes Unlimited and placed an order for cigarettes with Julius. That day, soon after I placed the order, Rob Schmidt's

wife called me and told me that Schmidt had been arrested in Staten Island. I was shocked, and thought that maybe he had been followed from Virginia.

12. After learning of Rob Schmidt's arrest, I immediately called Cigarettes Unlimited again and spoke with "Candice." I told Candice that Schmidt had been arrested in Staten Island. Candice said she would call "John," who I believed was the store owner. When I spoke to Candice later that day she told me that John had directed her to cancel my order because of the arrests of the Anticos and Schmidt.

13. Nonetheless, when I placed an order about two weeks after Rob Schmidt's arrest, with Julius, that order was accepted. When I went to pick it up, I parked away from my usual spot near the side of the store and parked some ways away at a supermarket. Once my order was ready, I told Paula that I had to get my car, having parked at a distance because I was afraid of being followed. Paula helped me load my car and I told her I was afraid that I would be arrested. Paula gave me her cell number and told me to call her when I arrived home, which I did, telling her I had arrived safely.

14. Paula had no reaction to the arrests other than to say that she believed the Anticos had reported Rob Schmidt to the police.

15. After the order described above, I placed one more order, through Julius. When I went to pick it up, the store was closed and no one was there. I called Paula who said the store had been closed, and that "we had to go to court." Paula did not say why the store had closed, but that she did not want to talk about it further.


I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 5, 2019
Brooklyn, New York



MARY DAVERN

SHARON RAJ
NOTARY PUBLIC-STATE OF NEW YORK
NO. 01RA6178228
QUALIFIED IN RICHMOND COUNTY
MY COMMISSION EXPIRES 11/26/2019

November 5, 2019.


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